(2) Despite Verizon's claims that it neither owns nor controls the on-premises wire at MTEs in Virginia and that its network ends at the MPOE, it goes on to proscribe how a CLEC may connect to the wiring Verizon claims neither to own or control.

(3) Out of asserted, but vaguely stated, concerns for customer service, security, fraud, union issues, accountability, and liability Verizon suggests, and proposes contract terms to require, that only Verizon should be authorized to connect on-premises wiring to a CLEC's network.[114] Yet when specifically asked in discovery to disclose the basis for the concern, Verizon was unable to provide a timely reply.[115]

(4) Finally, Verizon insists direct access to inside wire is not possible because Verizon could not track and charge CLECs for use of the subloop element.[116] Yet if Verizon neither owns nor controls the on-premises wiring there is nothing for Verizon to track or charge for. (Even if there were, the procedures established must be consistent with the investment in question – on-premises wiring generally involves investment related costs of little more than 25 cents per month. An elaborate order, tracking and billing system would certainly not be warranted.)

Q. HOW SHOULD CLECS BE ABLE TO ACCESS ON-PREMISES WIRING OF MTES?

A. In theory, even when the demarc and MPOE are not in identical locations, there should be little standing in the way of a competitor's access to the on-premises wiring of MTEs. The cross-connection of the on-premise wiring can be achieved simply by lifting the wiring from the customer side of the existing cross-connect device and extending it to the cross-connect device of the new service provider.

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calls for a legal conclusion and is, therefore, improper." Yet in the very next response Verizon says "the CLEC ***must*** access on-premises wiring through the customer side of the NID." (emphasis added). Use of the word "must" clearly indicates Verizon will not permit interconnection at any technically feasible point that the CLEC desires.

114 *See* Verizon Response to Unresolved Issues, at 102, Issue III-11: "by allowing direct access, Verizon loses it ability to assure it can track and charge AT&T for the use of the subloop element." *See also id.* at 103.

115 *See* Verizon Responses to AT&T Data Requests 3-21 & 3-22.

This presents no issue of potential network harm to the prior service provider even when a small segment of the wiring may be owned by the ILEC (*i.e.*, between the terminal and the demarc) and Verizon admits as much.[117] The prior service provider should not be exerting any limitation on the access to the wiring on the customer side of the cross-connection device. Indeed, Verizon Virginia claims that it asserts no such control.[118]

Q. HOW ELSE DOES VERIZON ATTEMPT TO EXERT SIGNIFICANT CONTROL WITH RESPECT TO MTE ACCESS?

A. Verizon makes unclear statements that indicate it may exert significant control over – and generate unjustified additional expense for – such access, particularly when Verizon may own or control the on-premises wiring. For example, "Verizon insists that its own employees be present when all cross-connections and other work are performed on any portion of the network Verizon owns or controls."[119] Elsewhere Verizon says: "[t]o the extent WorldCom seeks direct access to perform its own cross-connections, Verizon adamantly opposes this proposal."[120] Such intervention is unprecedented.

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116 *See* Verizon Response to Unresolved Issues, at 102, Issue III-11, *supra* note 30.

117 *See* Verizon Response to AT&T Data Request 2-29.

118 *See* Verizon Responses AT&T Data Requests 2-12(b) & (c) and 2-14.

119 *See* Verizon Reply to WorldCom Issue IV-29, page 129, and Verizon Response to Unresolved AT&T issue III-11, page 103.

120 *See* Verizon Reply to WorldCom, page 129.

Q. WHY IS VERIZON'S REQUIREMENT THAT IT PERFORM ALL CROSS-CONNECTIONS TO PREMISE WIRING UNREASONABLE?

A. The ability of a carrier to perform its own cross-connection has been found technically feasible by other state commissions[121] and has been permitted by the Commission in the UNE Remand (e.g., "an incumbent LEC must permit requesting carriers to connect its own loop facilities to the inside wire of the premises through the incumbent LEC's network interface device, or at any other technically feasible point, to gain access to the inside wire subloop network element."[122]

Q. ON WHAT BASIS DOES VERIZON JUSTIFY ITS DEMAND THAT, REGARDLESS OF WIRING OWNERSHIP, VERIZON CONNECT CARRIERS TO ON-PREMISES WIRING?

A. The only justification for Verizon's ostensible need for intrusion is, as I've testified earlier, its vaguely stated concern regarding "customer service, security, fraud, union, accountability and liability concerns."[123] Despite these concerns, and the impression that they are serious concerns of Verizon, Verizon was unable to provide any specifics based on a trial in another state.[124] This is not surprising because even Verizon acknowledges that once the wiring is re-terminated to the competitor's outside plant, access to Verizon's network no longer exists (in the

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121 *See, e.g.,* MediaOne Telecommunications of Georgia, LLC and BellSouth Telecommunications, Inc, Dockets 10418-U and 10135-U; see also NYPSC decision in House and Riser Trial, Case 00-C-1931.

122 UNE Remand Order at 237, 240.

123 Verizon Response to Unresolved AT&T Issue III-11, page 103.

124 *See* Verizon Response to AT&T Data Request 3-21.

case of privately owned wiring) and is limited to the on-premises wiring when Verizon exerts ownership.[125]

Q. DID VERIZON RAISE ITS CONCERNS WITH THE COMMISSION OVERSEEING THE TRIAL IN THE OTHER STATE?

A. Yes, and the Commission concluded that they "did not occur in any systematic fashion, had no material impact and were generally correctable."[126] The Commission concluded that "[t]he current method of providing cross connections to CLECs in Multi-tenant buildings is costly to both parties, and limits CLECs' flexibility in scheduling service provision to customers. We conclude that direct access to house and riser cable owned by other carriers will reduce costs and time associated with providing certain types of competitive facilities-based telecommunications services, thereby enhancing competition."[127]

Q. WHY ARE CONTRACT PROVISIONS REGARDING ACCESS TO MTE ON-PREMISE WIRING NECESSARY?

A. Contract terms governing access to MTEs are necessary to provide unambiguous rights for AT&T to access MTE wiring, regardless of whether the on-premises wiring is owned or controlled by Verizon. The policy statements and intent of recent Commission orders must be converted to detailed contractual provisions that faithfully implement the pro-competitive intent of these Orders and minimize the likelihood of Verizon engaging in semantic guerilla warfare.

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125 *See* Verizon Response to AT&T Data Request 3-22.

126 *See* NYPSC Case No. 00-C-1931 – In the Matter of Staff's Proposal to Examine the Issues Concerning the Cross-Connection of House and Riser Cables, at 6 (May 23, 2001).

127 *Id.* at 8-9.

Q. WHAT ARE THE CRITICAL PROVISIONS THAT AT&T SEEKS TO MEMORIALIZE IN THE TERMS THAT IT HAS PROPOSED?

A. The language submitted by AT&T reflects reasonable definitions and supporting general provisions necessary to permit faithful application of the access provisions. For example, connection of on-premises wiring to the distribution subloop element will be permitted and supported.[128] Obviously, the distribution sub loop element is of little value if, just as is the case with the local loop, it does not include on-premises wiring. The AT&T contract terms also define the on-premise wiring in terms consistent with the FCC UNE Remand (*i.e.*, wiring between two accessible terminals that is entirely contained on a single property.[129] AT&T's terms also provide for a rate structure that reflects a further subdivision of the on-premise UNE.[130] A substantial amount of the language is dedicated to how the on-premises wiring is accessed during and after initial cross-connection occurs. For the most part, the primary purpose is to define available options that are consistent with the UNE Remand provision for MTE access. The AT&T language also makes clear that AT&T, not Verizon, selects among the available technically feasible points of access to on-premises wiring.[131] The language defines how the wiring will be accessed in physical terms, and allows AT&T, to the extent available, the option to utilize spare terminal capacity on the

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128 *See* § 4.6.1.1 of AT&T's proposed schedule 11.2.14.

129 *See id.*, § 4.6.1.2.

130 *See id.*, § 4.6.1.3.

131 *See id.*, § 4.6.2.1 as required by 47 CFR 51.319(a)(2)(E) "This obligation [to provide a SPOI] is in addition to the incumbent LEC's obligation to provide nondiscriminatory access to subloops at any technically feasible point."

ILEC cross-connection device as permitted via acquisition of a stand alone NID.[132] Finally, when wiring is privately owned, Verizon must allow the property owner (or the connecting carrier) the unrestricted right, at no charge, to modify wiring that terminates on the building side of the cross-connection terminals, and cannot require the building owner (or the connecting carrier) to pay compensation for the use of the NID.[133]

Q. WHAT OTHER PROVISIONS DOES AT&T'S PROPOSAL INCLUDE?

A. It allows AT&T the option of deploying its own terminal device whether in proximity of the ILEC device[134] or within a physical enclosure deployed by the ILEC if space exists.[135] It provides for direct connection of the terminal device of AT&T to the ILEC cross-connection device.[136] It expressly permits AT&T to perform the work of re-terminating on-premises wiring to its own loop facilities (§ 4.6.2.6 as provided in the First Report & Order and reflected in 51.319(b)). It specifies efficient exchange of information for billing that allows Verizon to recover its "costs" while not imposing costly ordering procedures for a minimal cost element that is the only one required by AT&T to serve the premises.[137]

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132 *See id.*, § 4.6.2.2.a.

133 *See* Verizon Amended Reply to AT&T Data Request 2-12 b.

134 *See* § 4.6.2.2.b of AT&T's proposed schedule 11.2.14.

135 *See id.*, § 4.6.2.3.

136 *See id.*, § 4.6.2.6, as provided in the First Report & Order at 392.

137 *See id.*, § 4.6.2.7.

Q. DOES AT&T HAVE A CONCERN ABOUT HOW ON-PREMISE WIRING MIGHT BE ORDERED?

A. AT&T proposes that pair-by-pair ordering not be mandated. Expensive ordering processes (compared to the element employed) and needlessly repetitive procedures are unwarranted, especially when Verizon has already acknowledged that it does not retain records relating to MTE wiring[138] nor are the records essential to maintenance support[139] which would only be referred to AT&T. Indeed, where service is provided using privately owned wiring, Verizon acknowledges that it "retains no information that would allow it to uniquely identify and associate on-premises wiring pairs for a specific retain customer unit with specific terminal appearances on a terminal block and how that pair and terminal appearance are associated with cable pair assignments and terminal appearances of Verizon outside plant that is used to provide service to the retail customer."[140] Because Verizon has no need to maintain an association between its plant and on-premises wiring, it does not obligate the building owner, in the case of private wiring, to either report any changes to the terminations or to compensate Verizon for use of the NID.[141] AT&T does not object to providing information required for billing (where the on-premise wiring is owned by Verizon) on a periodic basis. Fulfilling this obligation, however, does not require pair-by-pair ordering.

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138 *See* Verizon Response to AT&T Data Request 2-26.

139 *See* Verizon Response to AT&T Data Request 2-17.

140 *See* Verizon Response to AT&T Data Request 2-28.

141 *See* Amended Response to AT&T Data Request 2-12 c.

Q. WHAT OTHER KEY PROVISIONS ARE REFLECTED IN AT&T'S LANGUAGE?

A. AT&T's terms also permit service to be delivered by AT&T even when uncertainty exists with respect to ownership of on-premises wiring.[142] This provision is particularly important given Verizon's apparent lack of any set of records to determine wiring ownership and its lack of any process to determine ownership.[143]

Q. ARE THERE ANY PROVISIONS IN AT&T'S PROPOSED TERMS THAT WOULD FACILTATE RESOLUTION OF QUESTIONS OF OWNERSHIP OR CONTROL OF ON-PREMISES WIRING?

A. Yes. AT&T's language affords a 10 day advance notice to permit Verizon to determine ownership.[144] Such an interval is consistent with provisions in the Building Access Order when the building owner seeks such a determination.[145] On the other hand, the language allows for only 1 day notice when another competitor is already servicing the same building[146] for the completely rational reason that Verizon (1) should already have made the determination of ownership for the other competitor(s) or (2) would be discriminating against AT&T if it made AT&T wait for such a determination when the carrier already serving the building had not been subjected to the same delay. AT&T's draft also provides a clear obligation for facility labeling, where Verizon owns the wiring, both to

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142 *See* § 4.6.2.8.

143 *See* Verizon Responses to AT&T Data Requests 2-1 & 2-2).

144 *See* § 4.6.2.8.1.

145 *See* Building Access Order at 56, finding a 10 day response interval to be reasonable.

146 *See* § 4.6.2.8.1.

permit exchange of facility use information and to avoid potential service disruptions.[147] This requires that Verizon tag its active pairs so that AT&T can minimize and already small likelihood of inadvertent service affecting failures.[148] It also requires that Verizon verify that no active service exist on any AT&T tagged wiring before it make any changes to the wiring configuration.[149] And entirely appropriately, the contract contains terms to assure that Verizon's failure to act on labeling its facilities does not become a tool to delay AT&T's providing service to an MTE.

Q. HOW DOES IT ACCOMPLISH THAT?

A. After allowing a 30 day grace period for Verizon to institute appropriate labeling, the contract provides that AT&T may begin service to the building regardless of whether or not Verizon has acted.[150] It also allows for recovery of assignment information, when Verizon is late in instituting labeling but holds Verizon responsible for AT&T's costs of recouping information that would ordinarily be capture as part of the initial service provisioning process. Furthermore, to provide an incentive for prompt action on the part of Verizon, the language forecloses any

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147 *See* § 4.6.2.8.2.

148 *See* §4.6.2.8.3. There is no reason to believe that AT&T's technician would cause any more service interruptions than are caused by activities of commercial inside wire contractors. Indeed, Verizon has acknowledged that it has no basis to believe or claim that trouble rates are different at MTEs where it provides the on-premise wiring than at those MTE locations where it does not (See Verizon response to AT&T Data Request 2-20).

149 *Id.*

150 *See* § 4.6.2.8.4.

retroactive charges for use of unlabeled facilities.[151] This is appropriate because only Verizon derives a benefit from exchange of detailed assignment information.[152] Finally, since Verizon employs an automated procedure for assigning loop facilities and dispatching provisioning technicians, the contract obligates Verizon to block automated assignment to facilities where AT&T has submitted facility utilization information described earlier.[153] This provision simply assures that Verizon will not inadvertently direct its technician to use a facility employed by AT&T.

Q. ARE THERE OTHER TERMS RELATING TO SITUATIONS OF AMBIGUITY OF OWNERSHIP OR CONTROL?

A. Yes. In light of possible disputes between Verizon and the building owner regarding ownership of the on-premises wiring, the contract requires that Verizon hold AT&T harmless when it has made payments to Verizon in good faith.[154]

Q. IS RESERVATION OF ON-PREMISES WIRING ADDRESSED IN THE AT&T LANGUAGE?

A. Yes, when the customer transfers service from Verizon to AT&T, it is unreasonable to expect that AT&T incur the expense of needlessly transferring the customer inside wire to different on-premises wiring. This practice, whereby Verizon reserves the first pair to a unit, is foreclosed[155] as well it should be, since it would be discriminatory to allow Verizon, and only Verizon, to provide

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151 *See* § 4.6.2.8.5.

152 In fact if Verizon acknowledges that this detail has little value to its operations, AT&T would be agreeable to revising this language related to facility labeling.

153 *See* § 4.6.2.8.6.

154 *See* § 4.6.2.9.

virtually instantaneous service provisioning by "disconnecting" the service in the Central Office but leaving the MTE connection in place.[156] In all other instances, reservation of spare pairs should not be permitted except to the extent the pair(s) are required for a bona fide retail customer request for service.

Q. DOES THE DRAFT CONTRACT CONTAIN ANY MAINTENANCE PRACTICES?

A. Yes, it does. For example, it requires, when AT&T employs on-premises wiring supplied by Verizon, that Verizon provide non-discriminatory maintenance support[157] as required by the Commission.[158] It also obligates Verizon to refer to AT&T any troubles that it receives from AT&T customers located within an MTE[159] – a practice that Verizon cannot reasonably object to because it professes to already do this.[160] And in the cases where AT&T processes the trouble report and determines that a dispatch is necessary and Verizon owns or controls the on-premise wiring, the contract language obligates Verizon to respond to the request but forecloses application of a dispatch charge by Verizon when AT&T has taken reasonable steps to first validate that the trouble source is not resident in the AT&T plant and equipment.[161] Frequently, troubles are difficult to isolate to on-premises wiring and replicate and, as a result, unrestricted application of the

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155 *See* § 4.6.2.10.

156 *See* Verizon Response to AT&T Data Request 2-23.

157 *See* § 4.6.2.11.

158 *See, e.g.*, First Report & Order at 316.

159 *See* § 4.6.2.11.1.

160 *See* Verizon Response to AT&T Data Request 2-17.

161 *See* § 4.6.2.11.2.

dispatch charge would be unreasonable. Additionally, so as to prevent finger pointing that only works to the detriment of the customer and to ensure that Verizon promptly and effectively deals with referred on-premises wiring troubles, the contract reserves the right for AT&T to (1) move its service to a different and spare facility or (2) to run its own wiring to the customer.[162] Note that the language must be updated to reflect the wait period for AT&T to exercise this option. Although Verizon simply deleted the language rather than supplying a proposed interval, AT&T remains willing to negotiate the period to be adopted.

Q. HOW DOES THE AT&T PROPOSED LANGUAGE ADDRESS THE DELIVERY OF A SINGLE POINT OF INTERCONNECTION?

A. It defines the Single Point of Interconnection ("SPOI")[163] in terms consistent with the UNE Remand Order.[164] It establishes (1) that Verizon has the obligations to provide the SPOI, (2) that AT&T may not be restricted with respect to its access to the SPOI, and (3) that AT&T specifically does not waive its right to use other technically feasible points of accessing on-premises wiring as permitted.[165] It requires that Verizon provide the requested SPOI within 60 days and that, once established, Verizon access its customers in the same MTE through the same device.[166] This assures that the SPOI will be efficiently sized, that once installed all customers will be accessible by any competitor, and that Verizon will have less

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162 *See* § 4.6.2.11.3.

163 *See* § 4.6.3.1.

164 *UNE Remand Order* at 226.

165 *See* § 4.6.3.2; *UNE Remand Order* at 226; *see also* 47 CFR 51.319(a)(2)(E).

166 *See* § 4.6.3.3.

of an opportunity to engage in discriminatory practices.[167] It also provides that Verizon may only recover its TELRIC costs[168] and that users of the SPOI (including Verizon) incur an equitable and proportionate share of the costs.[169] This provision is particularly important given Verizon's expressed intent to apply other than TELRIC-based charges.[170]

Q. HOW DOES THE PROPOSED AT&T LANGUAGE ADDRESS THE ON-GOING USE OF A SPOI?

A. The AT&T language also (1) clarifies that SPOI disputes will be handled under the general ADR provisions of the contract.[171] (2) provides, when a SPOI is established after AT&T begins service to a particular MTE, that it is AT&T's option whether it use the SPOI[172] and that should it elect to use the SPOI AT&T may opt to do the work (as provided by CFR 47 51.319(b)) or request that Verizon perform the work on a time and material basis[173] and (3) reasonably requires that Verizon notify AT&T when the building owner undertakes negotiations to establish a SPOI (i.e., move the demarc to the MPOE) so that

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167 *See* Building Access Order at 55, (which provides that the building owner and ILEC have 45 days to negotiate deployment of the SPOI, allowing another 15 days for deployment is not unreasonable).

168 Any inadequacy of embedded cost recovery through TELRIC is not a factor as this will be new installation of new equipment and facilities.

169 *See* § 4.6.3.4.

170 *See* Verizon Response to AT&T Issue III-11, at 103, directly disregarding the Commission's Rules; *see also* CFR 47 51.319(a)(2)(E).

171 *See* § 4.6.3.5.

172 *See* CFR 47 51.319(a)(2)(E).

173 *See* § 4.6.3.6.

AT&T may evaluate its options in a timely manner.[174] In this respect, it sets forth AT&T options, rights and notification requirement, consistent with the treatment of the SPOI, when Verizon and a building owner determine to move the demarcation point but do not necessarily move it to the MPOE and/or establish a SPOI.[175] Finally, it incorporates a general statement regarding access to Verizon's records.[176] In sum, AT&T's language is comprehensive, reasonable and faithfully adheres to both the letter and spirit of recent Commission orders intended to open MTEs to competition.

Q. HOW DO VERIZON'S CONTRACT TERMS COMPARE TO AT&T'S?

A. It is not entirely clear what version of language AT&T should address. The language upon which AT&T based its April 24th filing is not the same as the electronic version of the language Verizon provided to AT&T on July 19th. I will start by addressing the deficiencies of the Verizon language as reflected in the April 24th material. In both instances, however, Verizon's alternative language is vague, incomplete and, in some cases anti-competitive. It should be rejected in its entirety as it establishes Verizon as the gate keeper of MTE access and simply inflates competitor costs to levels where it will be impractical to compete.

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174 *See* § 4.6.3.7.

175 *See* § 4.6.4.4 and all subtending paragraphs.

176 *See* § 4.6.5.

Q. CONSIDERING THE LANGAUGE REFLECTED IN THE FILING OF APRIL 24TH HOW DOES THAT VERSION ESTABLISH VERIZON AS THE GATE KEEPER OF MTE ACCESS?

A. Verizon's language that AT&T considered in its filing of April 24th does not even address how on-premises wiring might be ordered. Care must be taken in this area to assure that an unnecessarily complex ordering process not be mandated for a relatively inexpensive element that is the only item required by AT&T to provide service in an MTE. For example, while the traditional LSR process could be employed, this approach has not been considered by OBF and, as a result, no resolution is likely for an extended period of time. And although the LSR process may be quite useful for such things as establishing directory listings, ordering customer specific UNEs, and porting numbers, it is "over built" for notifying the ILEC that a generally non-inventoried short pair of wires will be used at a particular premises (and even then the notification will not uniformly be required for all locations served). While the LSR might ordinarily trigger work by provisioning groups, update customer oriented information, update maintenance systems to permit necessary support or to initiate usage recording or particular switch features, none of this is required for intra-premises wiring. Effectively, the only requirement is that billing be initiated, and this only requires knowledge of quantity used, time period used and price, none of which requires a pair-by-pair submission of orders. AT&T believes the needs for billing can be met in a more efficient manner, such as by periodically delivering quantities used at a premises, rather than through an expensive and cumbersome pair-by-pair ordering approach.

Q. WHAT ELSE DOES VERIZON'S PROPOSED LANGUAGE OF APRIL 24TH COVER?

A. Very little, other than to delineate procedures for management and use of intra-premises facilities. It obligates AT&T to mark its facilities used.[177] Verizon is entirely silent on procedures to determine wiring ownership and procedures for deploying the SPOI. While Verizon does appropriately obligate itself to respond to AT&T trouble reports, it says little more beyond that except to identify conditions where Verizon may charge AT&T for false dispatches.[178]

Q. HOW DOES VERIZON'S LANGAUGE OF APRIL 24TH PERMIT VERIZON TO EXERT UNDUE CONTROL OVER ACTIVITIES AT THE MTE?

A. It mandates a joint site survey 15 calendar days in advance of first deployment of equipment without any limitation regarding the time by which the survey must be scheduled.[179] The only apparent justification for such a survey is to ensure that equipment placement does not encroach on the space of Verizon. While some accommodation may be appropriate, this can easily be accomplished by Verizon marking what space (within reason) is reserved rather than requiring a joint visit. Additionally, Verizon will allow a connecting terminal to be established but only if it is in the same room or no closer than 14" and no farther than 12' from the targeted Verizon terminal. The rationale for this limitation is completely unclear – and indeed there is none – as AT&T's choices in this area would only affect services provided by AT&T. Beyond that, the provision could become severely

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177 Verizon Proposed Interconnection Agreement at section 11.2.16.2(iv).

178 Id., section 11.2.16.7.

limiting if external enclosures or pedestals provide the means for accessing customer wiring. Finally, Verizon apparently believes that it is the only party with personnel competent to re-terminate wiring, even that which it does not control. Consequently it mandates that it perform that work.[180] Likewise it prohibits penetration of or passing through facilities and equipment of Verizon.[181] Such a prohibition may not seem unreasonable on the surface, at least where the building terminal is in a common room within a building – provided it does not serve to prevent a carrier from lifting building wiring and extending it to its own terminals. However, on the other hand, where external enclosures exist (such as pedestals and outside cross-connection boxes, which is a common occurrence for many MTEs), the restriction could be crippling. All access would then only be by Verizon's leave. Such a prohibition is contrary to the discussion of NID-to-NID connections found permissible in the First Report & Order.

Q. WHY DO YOU SAY THE PROHIBITION IS CONTRARY TO THE FIRST REPORT AND ORDER?

A. The FCC agreed, based on representations by Ameritech made in ex parte, that a NID-to-NID interconnection was not unreasonable. To that end, the FCC said "a requesting carrier is entitled to connect its loops, via its own NID, to the incumbent LEC's NID."[182] Of particular relevance here, the FCC said the "requesting carrier is entitled to connect its loops" which allows the competitor to

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179 Id., section 11.2.16.2(iii).

180 Id., section 11.2.16.4.

181 Id. section 11.2.16.2(iii).

do its own work rather than relying upon the ILEC. This language is explicitly incorporated into 51.319(b): "An incumbent LEC shall permit a requesting telecommunications carrier to connect its own loop facilities to on-premises wiring through the incumbent LEC's network interface device, or any other technically feasible point."[183]

Q. DOES VERIZON'S LANGAUGE CONTAINED IN THE APRIL 24TH FILING CLEARLY STATE ITS OBLIGATIONS WITH RESPECT TO MTE ACCESS?

A. No. The only things that are made clear by that version of Verizon's language are those things that it will **not** do. For example, it will not negotiate on behalf of AT&T with the building owner for access to the building, common space or on-property Rights of Way.[184] It will not move its equipment to provide space for AT&T.[185] It will not permit equipment to be connected to intra-premises wiring that will interfere with other parties' provisioning of services.[186] It also prohibits use of spare capacity on existing Verizon terminals or placement of a terminal within a Verizon enclosure if space exists.[187] The Commission should therefore reject the entirety of Verizon's language reflected in Section 11.2.16 and all subtending paragraphs and, in its stead, adopt the entirety of AT&T's language reflected in Schedule 11.2.14 Section 4.6 and all subtending paragraphs.

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182 First Report & Order ¶ 392.

183 Id.

184 *See* section 11.2.16.3.

185 *See* id.

186 *See* section 11.2.16.6.

Q. HOW DOES THE VERSION OF THE LANGAUGE REWCIVED ON JULY 19TH DIFFER FROM THAT CONTAINED IN THE APRIL 24TH FILING?

A. The more recent version deletes all the preceding language that AT&T believed Verizon was proposing and reflects an edited version of what AT&T proposed as alternative language. The most notable of the edits is the elimination of AT&T's reference to Schedule 11.2.14 that contained all the operational detail related to MTE access. In effect the language now only states that Verizon does not currently have house and riser facilities but, if some should be acquired in the future, that it will provide access pursuant to mutually agreeable procedures. The current version, compared to the April 24th Version of the language that I characterized as vague, incomplete and in some cases anticompetitive, is totally void of any meaningful content. The language of proposed by AT&T should be adopted in the stead of either version of the Verizon language.

ISSUE III.10 How and under what conditions must Verizon implement Line Splitting and Line Sharing?

I. <u>Introduction.</u>

Q. WHAT IS THE PURPOSE OF THIS PORTION OF YOUR TESTIMONY?

A. The purpose of this portion of my testimony is to demonstrate that AT&T's proposed detailed contract provisions implement the Commission's line sharing and line splitting requirements in a lawful and pro-competitive manner and should be adopted instead of Verizon's vague language that would likely lead only to

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187 *See* section 11.2.16.2(iii).

further disputes and litigation. I will also show, as background, that the Commission is clearly correct that both line splitting and line sharing are necessary to enable consumers to benefit from a competitive market for advanced services.

Q. PLEASE DEFINE "LINE SHARING" AS AT&T USES THAT TERM HERE.

A. Line sharing is defined in the Definitions section of AT&T's Schedule 11.2.17 as:

> Use of the HFS of Verizon's local loop by AT&T or a third party CLEC to provide Advanced Services to customers when Verizon simultaneously provides the customer's retail local voice service in the low frequency spectrum of the same local loop.

This is fully consistent with the definition established in the Commission's orders. The Commission found that line sharing was necessary to begin to allow consumers to benefit from competition for advanced services.[188] Line sharing was ordered by the Commission in December 1999, and incumbents were required fully to implement line sharing by June 6, 2000.[189]

Q. PLEASE DEFINE "LINE SPLITTING" AS AT&T USES THAT TERM HERE.

A. "Line splitting" is defined in the Definitions section of AT&T's Schedule 11.2.17 as:

> Simultaneous use of both the low frequency spectrum and high frequency spectrum of a single loop by AT&T when Verizon does not provide the customer's retail local service using the low

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188 *Deployment of Wireline Services Offering Advanced Services Capability and Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, Third Report and Order in CC Docket No. 98-147 and Fourth Report and Order in CC Docket No. 96-98, FCC Rcd 20912 (1999). ("*Line Sharing Order*"), ¶ 4-5.

189 *See id.* ¶ 161.

> frequency spectrum. AT&T, using its own facilities or the UNEs of Verizon, provides services in the low frequency spectrum. Services in the high frequency spectrum may be provided by either AT&T or a third party CLEC, given that the CLEC providing service in the HFS is authorized by AT&T, the party responsible for the entire loop, to utilize the HFS. Services in the HFS may be provided using AT&T's own facilities, through the use of resold services (whether retail or wholesale), through the use of UNEs, or any technically feasible combination of the preceding.

The Commission found that line splitting is an important competitive requirement, because:

> "the availability of line splitting will further speed the deployment of competition in the advanced services market by making it possible for competing carriers to provide voice and data service offerings on the same line. . . . At present, end users receiving voice service from competing carriers via the UNE-platform may be unable to get xDSL service from a competing carrier without migrating their voice service back to the incumbent LEC [*i.e.*, to a line sharing arrangement]. Line splitting, however, increases consumer choice by making it possible for carriers to compete effectively with the combined voice and data services that are already available from incumbent LECs and through line sharing arrangements. In addition, line splitting provides voice carriers who do not wish to provide xDSL services at this time [the opportunity] to develop partnerships with data carriers and thereby offer end users voice and data services on the same line."[190]

Critically, the Commission also found that line splitting is only one application of an incumbent LEC's larger obligation under our rules to provide access to network elements in a manner that allows a competing carrier "to provide any telecommunications service that can be offered by means of that

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190 *Deployment of Wireline Services Offering Advanced Telecommunications Capability and Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, Third Report and Order on Reconsideration in CC Docket No. 98-147 and Fourth Report and Order on Reconsideration in CC Docket No. 96-98, released January 19, 2001, FCC 01-26, ("*Line Sharing Reconsideration Order*"), ¶ 23.

network element."[191] Moreover, the Commission held that incumbents "have a *current obligation* to provide competing carriers with the ability to engage in line splitting arrangements. . . [because] the definition of a 'network element' in the Act does not restrict the services that may be offered by a competing carrier and expressly includes 'features, functions and capabilities that are provided by means of such facility or equipment.'"[192]

Further, the Commission held that "incumbent LECs are required to make all necessary modifications to facilitate line splitting, including providing nondiscriminatory access to OSS necessary for pre-ordering, ordering, provisioning, maintenance and repair and billing for loops used in line splitting arrangements," as well as the "central office work necessary to deliver unbundled loops and switching to a competing carrier's physically or virtually collocated splitter that is part of a line splitting arrangement."[193] Incumbents are required to allow competitors to order line splitting *immediately*, using manual processes where necessary.[194] They are also encouraged to use existing state collaboratives and change management processes to implement the changes necessary to:

(i) develop a single-order process to add xDSL service to existing UNE-platform voice customers;

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191 *Id.* ¶ 24.

192 *Id.* ¶18 (emphasis added); *see also* FCC Rule 51.307(c).

193 *Id.* ¶ 20. The Commission also stated that it expected to resolve "expeditiously" the issue of whether incumbents should be required to provide splitters to competing carriers. *Id.* ¶ 25.

194 *Id.*, n.36.

(ii) allow competing carriers to forego loop qualification if they choose to do so;

(iii) order loops to be used in line splitting as a "non-designed" service; and

(iv) use the same number of cross connections, and the same length of tie pairs for line splitting as in line sharing arrangements.[195]

Incumbents are also required to develop processes that would allow customers who are served through a line sharing arrangement to migrate to a line splitting arrangement with a new voice carrier and the existing advanced services carrier using a streamlined ordering process that employs customers' existing loops and avoids any disruption to either their voice or advanced data service.[196]

II. Line Sharing and Line Splitting Are Necessary to Support a Competitive Market.

Q. ARE LINE SHARING AND LINE SPLITTING NECESSARY TO SUPPORT A COMPETITIVE MARKET FOR LOCAL SERVICES?

A. Yes, for three reasons. First, line sharing and line splitting provide a significant market entry opportunity for new entrants. Second, it is important to boost DSL competition, because former RBOCs such as Verizon have come to dominate that market segment. Third, failure to adopt contract provisions that foster line sharing and line splitting will have significant negative consequences on

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195 *Id.* ¶ 21.

196 *Id.* ¶ 22.

competition for both advanced data services and bundles of voice and advanced data services.

Q. WHAT MARKET ENTRY OPPORTUNITIES DO LINE SHARING AND LINE SPLITTING OFFER TO NEW ENTRANTS?

A. Because currently available technology can split the transmission path on a single copper facility (*i.e.*, a 2-wire analog loop) into separate logical paths using separate frequency bands for transmitting communications, the vast majority of residential and business customers will no longer need to dedicate their local access line solely to traditional local voice services. With relatively little disruption or cost, most loops can now be used to provide access to both a traditional circuit switched network and an advanced services network.

This technology, when incorporated into metallic twisted-pair loops, is referred to as a Digital Subscriber Line (DSL) loop. Such sharing of the access line for traditional voice services and advanced services provides cost efficient solutions for business and residential customers alike. DSL technology not only generates savings by eliminating the need for a second access line, it also offers transmission rates that are orders of magnitude greater than those achievable through the use of dial-up analog modems. Moreover, it supports transmissions to/from advanced service networks while the very same loop is simultaneously used for traditional voice communications. High-speed access to the Internet is an advanced services application that is ideally suited for the "subdivided" transmission facility. Internet access is increasingly becoming less a novelty and more a necessity and, with high-speed access, more of the capabilities inherent in the Internet can be utilized.

As a result, deployment of DSL technology provides carriers with a unique growth opportunity not previously experienced in local markets. Industry estimates project that annual growth will be in the range of 60-65% through 2002 and average 33% per year for 2002 through 2005.[197] In fact Verizon itself has recently cited growth rates in the range of 100% for 2001.[198] Even with such growth rates, the existing base of customers is relatively small, but the potential for adding new customers is vast. Verizon and other incumbents have fully recognized this opportunity. By Verizon's own estimates, less than 10% of homes have high-speed access, yet 56% of adults and 75% of teenagers use the Internet.[199]

Unfortunately, the hoped-for competitive benefits from line sharing have been severely mitigated by the financial woes of data LECs, which were driven in no small part by the ILECs' opposition and foot-dragging. Thus, line splitting—particularly from carriers such as AT&T that plan to offer both voice and advanced data services—provides a critical means of re-energizing competition for both voice and advanced services.

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197 The Yankee Group estimates that there will be 2.8M subscribers by EOY 2001 growing to almost 10.5M by 2005. "Residential Broadband: Cable Modems and DSL Reach Critical Mass", The Yankee Group Report, Volume 5, No. 3 March 2001.

198 Verizon had 720,000 subscribers through Mar '01 and projected 1.2-1.3 million customers by the end of this year. June 11, 2001 Presentation by Verizon co-Chairman Charles Lee to CIBC World Markets Annual Investor Conference, found at http://investor.verizon.com.

199 According to a June 19, 2001 speech by Verizon's co-Chairman Ivan Seidenberg to the Computer and Communications Industry Association, about 9 M households, a little under 10% of on-line homes, have some form of high-speed connection, either cable modems/DSL, 104 million adults in the U.S. use the Internet–(56% of the total) and another 30 million users are under the age of 18 – (75% percent of all teenagers).